

August 5, 2013

## **Manufactured Housing License Law**

### **PART XIV. MANUFACTURED HOUSING**

#### **§911.21. Short title**

This Part shall be known and may be cited as "Uniform Standards Code for Manufactured Housing".

#### **911.22. Definitions**

As used in this Part, unless the context requires a different definition:

(1)(a) "Code" for manufactured housing means the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended, and federal regulations promulgated pursuant thereto, along with any construction or installation-related standards adopted by the Louisiana Manufactured Housing Commission.

(b) "Code" for modular housing means the International Residential Code as adopted by the Louisiana State Uniform Construction Code Council.

(2) "Commission" means the Louisiana Manufactured Housing Commission.

(3) "Criminal history record information" means conviction information collected by criminal justice agencies on individuals.

(4)(a) "Developer" means any person, group of persons, firm, partnership, corporation, association, company, or legal entity who sells or offers for sale to the public a lot together with a manufactured home permanently installed and fixed on a foundation on the lot and designed as a single family residence. For purposes of this Part, "developer" shall include "contractors" and "residential contractors" as defined in R.S. 37:2157.

(b) "Developer" shall not include an individual selling his personal residence, or a real estate broker or real estate salesman retained by a person to sell a manufactured home together with a lot on which the manufactured home has been installed and fixed on a foundation.

(4.1) "Distributor" means any person, firm, association, corporation, limited liability company, or trust, resident or nonresident, who in whole or in part sells or supplies manufactured housing to dealers or who maintains distributor sales representatives.

(4.2) "Distributor sales representative" means any officer, agent, or employee employed for the purpose of promoting the sale of manufactured housing or for supervising or contacting their dealers or prospective dealers.

(5) "Manufactured home" and "manufactured housing" means a factory-built, residential dwelling unit constructed to standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401 et seq., as amended. Further, the terms "manufactured home" and "manufactured housing" may be used interchangeably and apply to structures bearing the permanently affixed seal of the United States Department of Housing and Urban Development or to factory-built, residential dwellings that are mounted on a chassis.

(6) "Manufactured home broker" means an individual agent who acts as an intermediary or negotiator between a buyer and a seller.

(7) "Manufacturer" means any person who manufactures manufactured housing.

(8) "Mobile home" means a factory-built, residential dwelling unit built to voluntary standards prior to the passage of the National Manufactured Housing Construction and Safety Standards Act of 1974. This term includes and is interchangeable with the term "house trailer", but does not include the term "manufactured home", as only manufactured homes are built to federal construction standards.

(8.1) "Modular home" means a factory-built, residential dwelling unit built to the International Residential Code as adopted by the Louisiana State Uniform Construction Code Council.

(9) "Person" means a natural person, association, or group of natural persons, partnership, company, corporation, institution, or legal entity.

(10) "Retailer" means any person who is engaged wholly or in part in the business of buying, selling, distributing, or exchanging an interest in a manufactured home with the intent to make a profit, monetary gain, or any thing of economic value. Any person who buys, sells, distributes, or exchanges an interest in more than one such manufactured home in any twelve-month period shall be presumed to be a retailer. "Retailer" shall not include:

(a) Public officers while performing their official duties.

(b) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(c) Banks, finance companies, or other loan agencies whose principal place of business is in Louisiana that acquire manufactured housing as an incident to their regular business.

(d) A developer, or a contractor licensed as a developer under the provisions of R.S. 51:911.24, or a real estate broker or real estate salesman retained by a person to sell a manufactured home together with immovable property on which the manufactured home is located.

(e) A manufactured housing community or park owner that sells less than three manufactured homes in a twelve-month period, provided the community or park owner has owned and leased the manufactured home being sold for more than one year.

(11) "Salesman" means any person employed by a retailer or developer for purposes of selling manufactured housing to the public.

(12) "Seal" or "label" means the permanently affixed device or insignia issued by the United States Department of Housing and Urban Development (HUD) or other authority having jurisdiction that is displayed on the exterior of a factory-built manufactured home, certifying that the home is in compliance with the Code.

#### **§911.23. Establishment of Uniform Standards Code**

All new manufactured or modular homes, as defined in R.S. 51:911.22, which are sold or offered for sale in this state shall be in compliance with the Code and the requirements of this Part.

#### **§911.24. License required; qualifications; application; issuance; transfer; criminal history record information**

A.(1) No manufacturer, retailer, or salesman within or without this state shall sell or offer for sale in Louisiana any mobile home or manufactured housing unless he has obtained a valid manufacturer's, retailer's, or salesman's license, whichever is applicable, from the commission as provided in this Part.

(2) No developer shall sell or offer for sale to the public any manufactured home unless he has obtained a license from the commission, as provided in this Part. No employee of a developer shall offer manufactured housing for sale to the general public without first obtaining a salesman license or being a licensed real estate agent.

(3) No manufacturer within or without this state shall sell or offer for sale to a person any manufactured housing for resale to the public unless the person has obtained a valid retailer's or developer's license from the commission as provided in this Part.

(4) A license shall be issued when the requirements of this Part are met as herein provided.

(5) The commission may, by rule and regulation promulgated in accordance with the Administrative Procedure Act, provide for staggered renewal and collection of the annual license fees imposed under R.S. 51:911.28.

(6) No retailers or developers shall offer for sale to the public any new manufactured home unless the manufacturer of the home has obtained a valid manufacturer's license.

B. Application for a manufacturer's license shall be made upon the form prescribed by the commission and shall contain:

(1) The name and address of the applicant.

(2) The name and address of each partner if the applicant is a partnership.

(3) The names of the principal officers and the state in which incorporated, if the applicant is a corporation.

(4) The place or places where the applicant's business is to be conducted.

(5) Such other reasonable information as may be required by the commission.

C.(1) No retailer's, developer's, or salesman's license shall be issued to any person who has not attained the age of eighteen years.

(2) Each applicant for an original retailer's license or an original developer's license shall have first served actively for one year as a salesman or shall have purchased an existing licensed retail dealership.

D. Every application for license shall be verified by the oath or affirmation of the applicant if an individual or if the applicant is a partnership or corporation, by a partner or officer thereof. The applications for licenses shall be in such form and detail as the commission shall prescribe, setting forth the following:

(1) The name and address of the applicant and the name under which he intends to conduct business.

(2) The place or places, including the city or village with the street and street number, if any, where the business is to be conducted.

(3) Such other information as the commission may require.

(4) A list of all directors and officers and shareholders with more than twenty percent interest if said applicant is a corporation or a list of all principals if the applicant is a partnership.

E. A license shall be granted only to a person who bears a good reputation for honesty, trustworthiness, integrity, and competence to transact business in such a manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commission. If an applicant for a license is a partnership or a corporation, the qualifications of each member of a partnership or officer of a corporation may be considered by the commission in issuing or refusing to issue a license.

F. The commission may, after giving the applicant notice and opportunity for a hearing as provided for in this Part, refuse to issue a license when it is satisfied that the applicant has done one of the following:

(1) Made a false statement of a material fact in his application.

(2) Been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction.

(3) Has no established place of business which is used or will be used for the purpose of selling, displaying, and offering for sale or dealing in manufactured housing.

(4) Is violating the provisions of this Part.

G.(1) Any manufacturer or retailer before removing any one or more of his places of business or opening any additional place of business shall apply to the commission and obtain a separate license for each place of business to which he intends to move and for each additional place of business and pay the applicable fee, as provided in this Part, for each place of business to which he moves and for each additional place of business.

(2) A licensed salesman transferring employment from one retailer to another retailer shall apply to the commission for a transfer of his salesman's license within fifteen days after the date of his transfer of employment and shall pay the applicable fee as provided in this Part. The application for transfer shall be in a form prescribed by the commission.

H.(1) Except as provided in Paragraph (2) of this Subsection, beginning January 1, 1983, every license issued under this Part shall be issued annually and shall expire on December thirty-first following the date upon which it was issued. Each such license issued shall be renewed annually, and failure to apply for a renewal license by January first of the ensuing license period shall automatically suspend such license until a renewal license is applied for. During the period of suspension any practice by the licensee under the color of such license shall be deemed a violation of this Part. Applications made during the period of suspension shall require the payment of a fee equal to twice the amount of the license renewal fee as set forth in R.S. 51:911.28. Failure to obtain renewal license within twelve months after the date of suspension shall automatically revoke such license. Renewal of a retailer's license shall require such retailer to certify that he has maintained a record of providing satisfactory service to consumers.

(2) Beginning January 1, 1992, the commission may, by rule and regulation promulgated in accordance with the Administrative Procedure Act, provide for staggered renewal and collection of the annual license fees imposed under R.S. 51:911.28. Any rule and regulation promulgated under the provisions of this Paragraph providing for the staggered issuance and renewal of a license shall require that the license be renewed twelve months after issuance annually, and failure to apply for such renewal license shall automatically suspend such license until a renewal license is applied for. During the period of suspension any practice by the licensee under the color of such license shall be deemed a violation of this Part. Applications made during the period of suspension shall require the payment of a fee equal to twice the amount of the license renewal fee as set forth in R.S. 51:911.28. Failure to obtain renewal license within twelve months after the date of suspension shall automatically revoke such license. Renewal of a retailer's license shall require such retailer to certify that he has maintained a record of providing satisfactory service to consumers.

I. The commission shall have the authority to:

(1) Request and obtain from the Department of Public Safety and Corrections, Bureau of Criminal Identification and Information, criminal history record information as defined in R.S. 51:911.22(3) on any person applying for any license which the commission is authorized by law to issue and shall pay a fee as specified in R.S. 15:587.

(2) Charge and collect from an applicant for any license which the board is authorized to issue, in addition to all other applicable fees and costs, such amount as may be incurred by the commission in requesting and obtaining criminal history record information on the applicant.

J.(1) Prior to January 1, 2005, and each year thereafter, all retailers and developers shall annually take a commission-approved continuing education course. The individual required to

attend the continuing education course is the individual license holder; for corporations, an officer or manager; for partnerships, a partner or manager. The commission shall set the educational requirements and approve providers and the course materials for all continuing education classes.

(2) Any person applying for an original retailer's license or an original developer's license after January 1, 2004, shall submit a financial statement prepared by an independent third-party accounting firm evidencing a minimum net worth of fifty thousand dollars or post a fifty thousand dollar surety bond with the commission. Further, each of these persons shall take a class and pass an accompanying test prior to receiving his original license. The commission shall develop the class and test. The fee for the retailer and developer class and test shall be set by rule and shall not exceed one hundred dollars.

K. No individual may act as a manufactured home broker without first obtaining a license from the commission.

L. The commission shall require that retailers, developers, and installers show proof of continued and ongoing general liability insurance coverage of at least one hundred thousand dollars. Manufacturers shall be required to show proof of continued and ongoing liability insurance coverage of at least one million dollars.

**§911.24.1. Manufactured home retailer manufacturer relationship; warranty work; requirements upon termination; penalty; indemnity**

A.(1) In the event that a retailer ceases to do business with a manufacturer due to any of the following: the manufacturer refuses to honor an agreed upon sales territory; the manufacturer refuses to pay warranty claims within sixty days or perform major warranty work beyond the scope expected of a retailer within sixty days; or the manufacturer can no longer deliver the product requested by the retailer in a reasonable and timely manner, then after notice thereof to the manufacturer by registered or certified mail return receipt requested within thirty days thereafter, the manufacturer, at a minimum, shall repurchase all new and unused manufactured homes of the current or immediately prior model year and parts on hand that have not been damaged or substantially altered to the prejudice of the manufacturer while in the possession of the retailer and all required demonstrators.

(2) The manufacturer shall make the required repurchase after the retailer terminates his franchise, sales, or other contractual agreement and within sixty days of the submission by the retailer to the manufacturer, by registered or certified mail return receipt requested, of a final inventory of manufactured homes and parts on hand.

(3) Failure to make said repurchase without just cause shall subject the manufacturer to a penalty of one and one-half percent per month or fraction thereof of the inventory value of returnable manufactured homes and parts, payable to the retailer, as long as said repurchase is not made.

B. Any warranty work performed by a manufactured home retailer pursuant to a manufacturer's warranty shall be reimbursed by the manufacturer within sixty days of invoicing for such services at a labor rate equal to but not in excess of the labor rate in effect at that retail dealership at the time that the warranty work is performed. The reimbursement amount shall

also include reasonable costs for parts and mileage related to the performance of such warranty work.

C. Notwithstanding the terms of any franchise, sales, or other contractual agreement, each manufacturer shall indemnify and hold harmless its retailers against any judgment for damages, including but not limited to court costs and reasonable attorney fees of the retailer, arising out of complaints, claims, or lawsuits including but not limited to strict liability, negligence, misrepresentation, express or implied warranty, or rescission of sale to the extent that the judgment arises out of alleged defective or negligent manufacture, assembly, or design of manufactured homes, parts, or accessories or other functions of the manufacturer, which are beyond the control of the retailer.

D. Prior to making a change in the area of responsibility described in the franchise, sales, or other contractual agreement or sales and service agreement of a retailer, the franchisor or manufacturer shall give said retailer no less than sixty days prior written notice by certified or registered mail.

**§911.25. Repealed by Acts 2012, No. 112, §2.**

**§911.26. Louisiana Manufactured Housing Commission**

A.(1) The Louisiana Manufactured Housing Commission is hereby created. The commission shall be composed of seven members, with at least one member appointed from each Public Service Commission district, all appointed by the governor with the consent of the Senate as provided in this Section.

(2) Three members shall be appointed by the governor from a list of six individuals submitted by the Louisiana Manufactured Housing Association or its successor. Each nominee shall have a minimum of five years of industry experience as a manufacturer, retailer, or installer as provided in this Part or Part XIV-B<sup>1</sup> of this Chapter.

(3) The remaining four members of the commission shall be members at large appointed by the governor, one of whom shall be an individual residing during the term of his appointment in a manufactured home.

B.(1) The term of office of each commissioner shall be coterminous with that of the governor making his appointment, and each commissioner shall serve until his successor is appointed and is qualified. However, the term of office of any member appointed from within a specific Public Service Commission district as provided above shall automatically expire if that member moves out of such Public Service Commission district. In the event of any vacancy, whether by death, resignation, removal, expiration of term, or otherwise, the vacancy shall be filled for the unexpired portion of the term in the manner in which the original appointment was made.

(2) The commission shall meet at Baton Rouge and complete its organization immediately after the entire membership has been appointed. The commission shall elect a chairman and vice chairman at its organizational meeting and as needed thereafter as determined by a majority of the commission.

(3) The chairman and each member of the commission shall take and subscribe to the oath of office required of public officers.

(4) When dealing with commission matters, a commissioner may recuse himself in the event of a real or perceived conflict of interest.

C. The chairman and members of the commission shall receive seventy-five dollars for each and every day actually and necessarily spent in attending meetings of the commission, including any commission committee meetings, and shall be reimbursed for subsistence and traveling expenses incurred in the performance of their duties as provided by the travel regulations issued by the commissioner of administration. Such meeting payments shall not exceed the sum of five thousand dollars per annum to any one person within a calendar year.

D.(1) The commission shall hire a qualified person to serve as executive director who shall have had sufficient management and organizational experience to direct the day-to-day operations of the commission. The commission shall fix the salary and shall define and prescribe the duties of the executive director.

(2) The executive director shall be in charge of the commission's office and shall devote such time as directed by the commission to fulfill the duties thereof, and before entering upon his duties he shall take and subscribe to the oath of office.

(3) The commission may employ such clerical, technical, legal, and other help and incur such expenses as may be necessary for the proper discharge of its duties under this Part and Part XIV-B of this Chapter.

(4) The commission shall maintain its office and transact its business in Baton Rouge and is authorized to adopt and use a seal.

E. The commission is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out and enforce the provisions and objectives of this Chapter, and is hereby authorized and empowered to make and enforce all reasonable rules and regulations and to adopt and prescribe all forms necessary to accomplish said purpose. The enumeration of any power or authority herein shall not be construed to deny, impair, disparage, or limit any others necessary to the attainment thereof. All rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.<sup>2</sup> Oversight review shall be conducted by the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

F. The powers and duties of the commission shall include but are not limited to the following:

(1) Licensing of manufacturers, retailers, developers, salesmen and installers as provided in this Part and Part XIV-B of this Chapter.

(2) Inspecting a reasonable sample of installations of manufactured homes within this state to insure compliance with state and federal standards.

(3) Working with consumers, manufacturers, retailers, developers, salesmen, and installers to hear complaints and make determinations relating to construction defects, warranty issues, service complaints, and other matters which are not set forth pursuant to 24 CFR Part 3280 and 24 CFR Part 3282.



(4) Establishing an alternative dispute resolution process for manufactured home consumers in Louisiana. The commission may charge a reasonable fee to defray the cost of establishing the alternative dispute resolution process.

(5) Requiring all licensees to maintain their records for a period of three years and to keep their records open to inspection by any authorized employee of the commission during reasonable hours.

(6) Holding and conducting hearings on any violation of the provisions of this Part or Part XIV-B of this Chapter and on the imposition of a civil penalty, fine, suspension, or revocation for any such violation.

(7) The ability to issue cease and desist orders, and to subpoena individuals and records as it deems necessary.

(8) The ability to take action against any licensee that hires an individual that has been found to be in violation of the law and has a license that is either suspended or revoked.

(9) Review and approve continuing education course work, required under this Part or Part XIV-B of this Chapter, offered in other states, if the other state allows for reciprocity of Louisiana continuing education course work.

(10) The authority to establish a mandatory uniform written transportation and installation contract that is required to be used by all transporters and installers when moving or installing a manufactured home in this state. Transporters and installers shall be required to give their customers a copy of the contract, itemizing all services being provided and the cost associated with those services, prior to beginning work. These records shall be maintained for at least three years and shall be made available to the commission for inspection. Transporters who are only passing through the state or are delivering a home to a licensee of the commission, are not required to comply with the provisions of this Paragraph. The commission shall have the authority to promulgate rules and regulations in accordance with the Administrative Procedure Act in order to implement the provisions of this Paragraph.

G. All expenses incurred by the commission in carrying out the provisions of this Part including but not limited to per diem, wages, salaries, rent, postage, supplies, bond premiums, travel and subsistence for the commissioners and the executive director, printing, and utilities shall be proper charges against the fund.

H. The commission shall, in addition to the powers herein conferred, be constituted a body politic or political corporation, invested with the powers inherent in corporations. It may sue and be sued under the style of the Louisiana Manufactured Housing Commission, and all process against the corporation shall be served on the chairman or executive director, and all suits on behalf of the commission shall be brought by the chairman or his designee. The domicile for the purpose of being sued shall be in East Baton Rouge Parish. Service of process shall be made upon the chairman or upon the executive director of the commission in person. No member of the board shall be held liable as an individual in any suit against the board.

I. Repealed by Acts 2007, No. 441, §2.

J. Upon establishment of the commission, the office of state fire marshal, code enforcement and building safety in the Department of Public Safety and Corrections shall transfer all records, assets, and equipment in use by the manufactured housing division to the Louisiana Manufactured Housing Commission within the office of the governor.

**§911.27. Repealed by Acts 2001, No. 718, §4.**

**§911.28. Fees; disposition**

A. The commission shall impose and collect the following schedule of fees:

(1) Original manufacturer's license

\$ 250.00

(2) Manufacturer's renewal license

\$ 250.00

(3) Original retailer's license

\$ 150.00

(4) Retailer's renewal license

\$ 150.00

(5) Original salesman's license

\$ 50.00

(6) Salesman's renewal license

\$ 50.00

(7) Transfer of salesman's license

\$ 5.00

(8) Retailer's branch office license

\$ 75.00

(9) Developer's original or renewal license

\$ 150.00

(10) Manufactured home broker license

\$ 150.00

B. All fees or fines collected under the provisions of this Part or Part XIV-B of this Chapter shall be collected and received by the executive director of the commission and, upon receipt, shall be deposited by him into the state treasury and, after compliance with the provisions of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, shall be credited to the Louisiana Manufactured Housing Commission Fund which is hereby created as a special fund in the state treasury. Monies in the Louisiana Manufactured Housing Commission Fund shall be appropriated by the legislature for use solely for the purposes of the activities of the commission in implementing and enforcing the provisions of this Part and Part XIV-B of this Chapter.

C. Repealed by Acts 2003, No. 661, §2.

**§911.29. Motor vehicle inspection; exception**

The provisions of Chapter 7 of Title 32 of the Louisiana Revised Statutes of 1950 relative to inspections shall not apply to manufactured housing.

**§911.30. Serial numbers on manufactured homes**

On each manufactured home manufactured after January 1, 1975, a serial number shall be stamped by the manufacturer on the front cross member of the frame so that it can be easily read. It may not contain more than fifteen digits. Any multiple units shall contain the same serial number with letters of the alphabet designating that each is a different separate unit. Starting with the letter "A", each unit addition shall be in alphabetical order. The letter shall be stamped at the end of the serial number.

**§911.31. Repealed by Acts 1976, No. 125, §1**

**§911.32. Administration and enforcement of Part; powers of commission; cease and desist orders; applicability of Administrative Procedure Act**

A.(1) The commission is charged with the adoption, administration, and enforcement of manufactured housing construction and safety standards and any other rules and regulations necessary for the administration and enforcement of this Part which are not set forth pursuant to 24 CFR Part 3280 and CFR Part 3282, Subpart I.

(2) The commission may adopt, pursuant to the Administrative Procedure Act, such rules and regulations as are necessary to enforce the standards promulgated under this Section and any other rules and regulations necessary for the administration and enforcement of this Part not inconsistent with the provisions of this Part.

(3) For the performance of duties required under the provisions of this Part including but not limited to the inspections necessary to administer and enforce the standards, rules, or regulations adopted under this Subsection, the commission may adopt fees of not more than fifty dollars per inspection and not more than twenty-five dollars per hour for services performed in conducting the inspections.

B. The commission may contract for professional services and may hire employees as it deems necessary for the performance of its functions required or authorized by the provisions of this Part, to the extent that funds are available therefor. To the extent practicable, and not inconsistent with civil service requirements, the commission may utilize for the administration and enforcement of this Part the services of its assistants, deputies, counsel, officers, and employees whose appointment, contract, or employment is authorized by other laws.

C. Except as otherwise provided in this Part, the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 shall apply to the administration and enforcement of this Part.

D. Any person who interferes with, obstructs, or hinders the commission or its authorized representative in the performance of the duties or exercise of powers as set forth in the provisions of this Part shall upon conviction be fined not more than five hundred dollars or imprisoned for not more than six months.

E. The commission or its authorized representatives may enter any place, establishment, or location where manufactured homes are manufactured, sold, offered for sale, or installed, for the purpose of ascertaining whether the requirements of the Code and of this Part, and the rules and regulations of the commission, have been or are being complied with.

#### **§911.33. Agent for service of process**

Every person licensed by the commission domiciled outside of the state of Louisiana who does not maintain an office or place of business in Louisiana and who does not have any other agent designated for service of process shall by his application for a license appoint the secretary of state of Louisiana as his agent for service of process in an action or proceeding on a cause of action related to the business activity of such license.

#### **§911.34. Suit by commission for violations; venue; relief obtainable**

A. Whenever it appears that a person is violating or is threatening to violate the Code or a provision of this Part, Part XIV-B of this Chapter, or any rule or regulation adopted and promulgated by the commission in accordance with the Administrative Procedure Act, the commission shall bring suit to restrain that person from continuing the violation or from carrying out the threat.

B. Venue is permissible in the district court in the parish of the residence of any one of the defendants or in the parish where the violation is alleged to have occurred or is threatened or in the Nineteenth Judicial District Court for the parish of East Baton Rouge.

C. In the suit, the commission may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, as the facts warrant, including, when appropriate, injunctions restraining a person from moving or disposing of a manufactured home that is subject to the requirements of this Part, Part XIV-B of this Chapter, or any rule or regulation adopted and promulgated by the commission in accordance with the Administrative Procedure Act, or to restrain a person from engaging in any business for which a license has been or should be issued under this Part or Part XIV-B of this Chapter. Any such manufactured home may, in the court's discretion, be ordered impounded or placed under the control of an agent appointed by the court.

D. All costs incurred by the commission, including reasonable attorney fees, may be borne by the person or licensee who has been enjoined, or found in violation of the provisions of the Code, or any provision of this Part or Part XIV-B of this Chapter, or any rule or regulation adopted and promulgated by the commission in accordance with the Administrative Procedure Act.

**§911.35. Suit by party in interest upon commission's failure to sue**

If the commission fails to bring suit within ten days to restrain a violation as provided in R.S. 51:911.34, any person in interest adversely affected by the violation who has notified the commission in writing of the violation or threat thereof and has requested it to sue, may bring suit to prevent any or further violations, in the district court of any parish in which the commission could have brought suit. If the court holds that injunctive relief should be granted, the commission shall be made a party and shall be substituted for the person who brought the suit and the injunctions shall be issued as if the commission had at all times been the complaining party.

**§911.36. Hearings to investigate and determine violations; orders prohibiting violations and requiring compliance**

Whenever in the opinion of the commission the Code or the requirements of this Part or Part XIV-B of this Chapter are being violated, it may conduct hearings to investigate and determine whether the violation has occurred or is occurring and may issue orders prohibiting such violation and requiring compliance with the Code and the provisions of this Part or Part XIV-B of this Chapter.

**§911.37. Repealed by Acts 2001, No. 718, §4.**

**§911.38. Suspension or revocation of licenses for violation**

After prior notice and hearing, the commission may suspend or revoke the license of any manufactured home licensee licensed under this Part for violations of the Code or the manufactured home provisions of this Part. The notice, hearing, and actions under this Section shall be governed by the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950, and particularly R.S. 49:961(C) relative to emergency action.

**§911.39. Penalties for violations**

A. Whoever is found guilty of violating the Code or any manufactured housing provision of this Part, Part XIV-B of this Chapter, any rule, or any regulation or final order issued thereunder shall be liable to the state of Louisiana through the commission for a civil penalty not in excess of one thousand dollars for each violation. Each violation shall constitute a separate violation with respect to each manufactured home, or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

B. Any individual or director, officer, or agent of a corporation who knowingly and willingly violates any provision of the Code or of this Part, Part XIV-B of this Chapter, or any rule or regulation issued thereunder in a manner which threatens the health and safety of any

purchaser shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

#### **§911.40. Severability**

If any provision or item of this Part or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Part that can be given effect without the invalid provision, item or application and to this end the provisions of this Part are hereby declared severable.

#### **§911.41. Supremacy of the Part**

Notwithstanding any provision of law to the contrary, the codes and standards referenced in R.S. 51:911.21 et seq. and R.S. 51:912.21 et seq. and those adopted by the commission shall be the only construction and installation standards used for manufactured housing in Louisiana, and these standards shall preempt all local standards as they relate to the construction and installation of manufactured housing and manufactured homes in Louisiana.

#### **§911.42. Repealed by Acts 2008, No. 825, §2.**

#### **§911.43. Maintenance of records; reports required**

Each manufactured home licensee shall establish and maintain such records, make such reports, and provide such information as the commission may reasonably require in order to be able to determine whether such licensee has acted or is acting in compliance with the Code and the manufactured housing provisions of this Part. Upon request of the commission, each manufacturer, distributor, and dealer shall permit the commission or its representative to inspect appropriate books, papers, records, and documents relevant to determining whether the licensee has acted or is acting in compliance with the provisions of this Part, as well as any regulation or order issued thereunder.

#### **§911.44. Repealed by Acts 2008, No. 825, §2.**

#### **§911.45. Repealed by Acts 1997, No. 1116, §2 and No. 1294, §6, eff. July 15, 1997.**

#### **§911.46. Down payments, sale of manufactured housing**

It is unlawful for a retailer to set forth in any retail installment sales contract, chattel mortgage, or security agreement any down payment unless all of the down payment has actually been received by the retailer at the time of execution of such document. If any part of the down payment is represented by a loan, trade-in, or any consideration other than cash, this fact shall be expressly set forth on the retail installment sales contract, chattel mortgage, or security agreement. No amount of the cash down payment shall be from any rebate or other consideration received by or to be given to the consumer from the retailer or his agents.